IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 21121 of 2007(M)

PETITIONER:

SMT.P SHABEENA,
PROPRIETRIX, M/S. KVK MARKETING CENTRE,
NOW RESIDING AT "ASHRAF MANZIL", SREEKANDAPURAM,
KANNUR DISTRICT.

BY ADV. SRI.S.EASWARAN

RESPONDENTS:

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1. THE DEBT RECOVEY APPELLATE TRIBUNAL,
CHENNAI.

2. THE AUTHORISED OFFICER,
CHIEF MANAGER (ADVANCE), STATE BANK OF TRAVANCORE,
REGIONAL OFFICE, KANNUR.

3. THE BRANCH MANAGER,
STATE BANK OF TRAVANCORE, KANNUR.

R1 AND R2 BY ADV. SRI. PATHROS MATTHAI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 21121 OF 2007

Dated this the 12th day of July, 2007

JUDGMENT

Petitioner is challenging Ext.P4 order whereunder the DRAT has ordered payment of Rs. 10 lakhs as a condition for entertaining the appeal filed against DRT order. The loan is admitted and the only claim of the petitioner is that small tracts of urban land mortgaged for loan is agricultural land exempt from proceedings under the Securitisation Act. DRT has gone into the issue extensively and held against the petitioner. DRAT has dispensed with payment of 50% which is a condition under the statute for filing appeal and directed payment of Rs. 10 lakhs in two monthly instalments. Senior counsel appearing for the respondent-Bank opposed modification of DRAT order on the ground that the claim in the appeal is prima facie unsustainable. Since petitioner has filed statutory appeal, I feel one opportunity can be granted to pursue the appeal but on modified conditions. Petitioner is directed to pay 50% of the amount claimed by the Bank as against Rs. 10 lakhs ordered to be paid by the DRAT in

four instalments, first of which will be paid on or before 31.7.2007 and the balance on or before last day of three succeeding months. If payments are made as above, then there will be direction to the respondent-Bank to withhold sale proceedings for recovery of balance 50 per cent for three months after payment of last instalment. If the petitioner commits default in payment of any instalment, the benefit granted will stand automatically cancelled and the Bank is free to sell the properties. However, if petitioner makes payment as above, then there will be direction to the DRAT to hear the parties and dispose of the appeal within three months from the date of making payment of last instalment. Recovery thereafter will be based on order of DRAT.

W.P. is disposed of as above.

Issue photocopy today itself.

(C.N.RAMACHANDRAN NAIR)
Judge